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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 NADIA JALAL THOMPSON,

9 Plaintiff,

10 v.

11 TRIDENT SEAFOODS CORP., *et al.*,

12 Defendants.
13

No. C11-0120RSL

ORDER DENYING MOTION FOR
PROTECTIVE ORDER REGARDING
MEDICAL RECORDS

14 This matter comes before the Court on plaintiff's motion for "Protective Order
15 (Quash) Subpoena Regarding Plaintiff's Medical Records and Subpoena to Depose Dr.
16 Aoyama." Dkt. # 19. Plaintiff objects to the deposition subpoena and records subpoena served
17 on her treating physician, Dr. Aoyama, to the extent they seek medical records or information
18 beyond the subjects specifically authorized by plaintiff in a medical release signed on October
19 24, 2011.¹

20 Plaintiff has asserted a claim for emotional distress damages arising from the
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22 ¹ In her motion, plaintiff also argues that a subpoena was unnecessary, that the deposition will
23 unduly burden Dr. Aoyama, that videotaping is intimidating and stressful, and that defendants failed to
24 give reasonable notice of the deposition. Depositions of third-party witnesses are generally scheduled
25 through a Rule 45 subpoena. Defendants' use of that procedure is not unusual and imposes no
26 additional burden on plaintiff or the witness. Plaintiff has withdrawn her other procedural objections to
the subpoena. Dkt. # 29 at 3.

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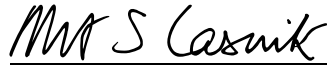
1 alleged sexual harassment that gave rise to this litigation. She has identified her treating
2 physician, Dr. Aoyama, as an expert. Apparently recognizing that at least some of her medical
3 records are relevant to her damages claim, plaintiff has authorized the release of records related
4 to her mental health and drug/alcohol abuse. Dkt. # 26, Ex. J. However, she has specifically
5 instructed Dr. Aoyama to refrain from producing any records related to “(1) female issues/
6 hormonal (2) VD/HIV issues [and] (3) genetic issues.” Dkt. # 26, Ex. L. Defendants therefore
7 issued a third-party records subpoena to Dr. Aoyama and seek to depose him on January 4, 2012.

8 By initiating a lawsuit and demanding that defendants compensate her for her
9 emotional distress, plaintiff has put at issue both the extent of that distress and its cause or
10 causes. If defendants are to have a meaningful opportunity to defend themselves against
11 plaintiff’s claim, they must be permitted to investigate other stressors and potential sources of
12 the emotional distress. If, for example, plaintiff were recently diagnosed with an incurable
13 disease, discovered unfavorable genetic markers, or suffered from a hormonal imbalance that
14 affects her mood, such information would clearly be important to the factfinder when
15 determining the cause of plaintiff’s emotional distress. Plaintiff cannot pick and choose between
16 the types of medical records that will be provided: she is not the arbiter of what is relevant and
17 what is not relevant. Having found that the information requested is relevant and noting that
18 defendants have signed a confidentiality agreement regarding the health care information
19 produced by Dr. Aoyama, plaintiff’s objections to the scope of the requested discovery are
20 overruled.

21 Defendants request an award of fees to send “a meaningful message” to plaintiff
22 regarding her discovery obligations. Although plaintiff’s procedural objections were meritless,
23 there was a bona fide dispute regarding the scope of the discovery requested. Plaintiff promptly
24 and properly filed a motion for protective order to get the issue resolved in a timely manner. No
25 fees will be awarded.

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2 For all of the foregoing reasons, plaintiff's motion to quash (Dkt. # 19) is
3 DENIED.

4 Dated this 3rd day of January, 2012.

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6 Robert S. Lasnik
7 United States District Judge
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